

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THADDEUS KAROW,

Plaintiff,

v.

NURSE HEYDE, NURSE ANDERSON,
DOCTOR HANNULA, JANE DOE AND
JOHN DOES 1-10.

Defendants.

ORDER

Case No. 14-cv-395-jdp

On June 3, 2014, this court entered an order directing plaintiff Thaddeus Karow to submit by June 30, 2014 an initial partial payment of the filing fee in the amount of \$136.05 in this case. Now plaintiff has filed a motion to use his release account funds to pay the entire fee for filing this case. (Dkt. #5).

Although it is commendable that plaintiff is taking responsibility for paying his entire filing fee promptly, he cannot use his release account funds in the manner he requests. The language in 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy an *initial partial payment* if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the entire balance of the \$350 filing fee, his motion will be denied.

Plaintiff is reminded that if he does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or

all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$136.05 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes.

Since the court has not yet received plaintiff's \$136.05 initial partial payment and his deadline is June 30, the court will provide plaintiff with an enlargement of time to pay his initial partial payment.

ORDER

IT IS ORDERED that:

1. Plaintiff Thaddeus Karow's motion for use of his release account funds to pay the entire filing fee in this case (Dkt. #5) is DENIED.
2. Plaintiff may have until July 15, 2014, to submit a check or money order made payable to the clerk of court in the amount of \$136.05. If by July 15 2014, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing his case at a later date.

Entered this 27th day of June, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge